HOME (JAILS) DEPARTMENT

The 2nd May, 1970

No. 3950-5JJ-70/14742.—In accordance with the decision of the State Government to set up Advisory Committies for all the departments with the object of affording members of the State Legislature greater opportunites of advising the Government on matters of general public interest and to assist in the formulation of Government policies and their implementation, the Governor of Haryana is pleased to constitute a State Advisory Committee for the Jails Department and to appoint the following to be its non-official members:—

1. Rao Nihal Singh, Narnaul (District Mohindergarh).
2. Ch. Hem Raj, MLA, Hathin, District Gurgaon.
3. Sh. Kanwar Singh Dahiya, MLA, Khardhoda, District Rohtak.
4. Ch. Surjit Singh Mann, MLA, Karnal.
5. Sh. Bhagwan Dass Sehgal, MLA, Ambala Cantt.
6. Ch. Narain Singh. Ex-MLA, Jind.
7. Ch. Harkishan Lal, MLA, Sirsa (Hissar).

2. Three members present shall from a quorum for a meeting. The Headquarter of the Committee shall generally be at Chandigarh.

3. The Committee will meet quarterly under the Chairmanship of Minister-in-Charge and in his absence/Deputy Minister concerned. In case neither of them is present, one of the non-officials present at the meeting will preside over it as may be mutually agreed upon by the members present.

4. The functions of the Committee will be to advise the Minister-in-Charge on general policy matters and specific programmes. The meetings will also afford a forum for ventilating public grievances relating to the Jails Department. In respect of any matter intended to be raised at a meeting of the Committee, notice should be given to the Secretary to Government, Haryana, Home Department, at least one month before the date of the said meeting.

5. The term of the Committee will normally be two years but the Government may by express order reconstitute any Committee at an earlier date.

The members of the Committee will draw T. A. as under:—

(a) The Legislators in their *exofficio* capacity under the Punjab Legislative Assembly (Allowances of Members) Act, 1942 and the Rules made thereunder, as in force at present or may be amended hereafter.

(b) The Travelling Allowance admissible to a Member of Parliament, will in respect of journeys performed by rail be the same as is admissible to the members of the State Legislature appointed in an *exofficio* capacity, less one 1st Class fare for journeys by rail to and from.

(c) Non-officials other than MLAs/MPs at one 1st Class Railway fare plus incidental allowance and road mileage as admissible to a 1st Grade Government employee drawing a pay of Rs. 1,000 and Rs. 9.00/11.25/13.50 in plains/Hills/Special Hill tract as Daily Allowance. The other conditions laid down in the Punjab T.A. Rules for Government employees will also apply to journeys performed by non-official members except where otherwise provided.

(d) The expenditure on account of T.A. Bills of the members of the Legislature should be paid by the Jails Department direct. The T.A. Bills of the member of the Legislature will howover, continue to be countersigned by the Secretary, Haryana Vidhan Sabha.

(e) The Travelling Allowance for attending the meetings of the Committee should be allowed to the members from their permanent place of residence to the place of the meeting. If, however, a member attends a meeting from a place other than the place of his permanent residence T.A. should be allowed to him either from the place of his residence or from where he attends the meeting whichever is less.

(f) The T.A. and D.A. will be admissible to the non-official members (other than MLAs.,) on the production of a certificate to the effect that no T.A. in respect of the journey or D.A. for the period mentioned in the bill has been or will be claimed by him from any other official source.

(g) The Controlling authority for this purpose will be the Inspector General of Prisons, Haryana.

(h) The expenditure on account of TA/DA of the members shall be met out of the budget grant of the Jails Department under the head "22 Jails".

M. L. BATRA,
Financial Commissioner, Home and Secy,

HOME (POLICE) DEPARTMENT

The 22nd May, 1970

No. 9473/B(1).—Retirement.—Having attained the age of 55 years, the Governor of Haryana is pleased to permit Shri Ram Nath Passi, Offg. Deputy Superintendent of Police, No. P/40, to retire from the Haryana Government service with effect from 31st March, 1970 under rule 5.32 of Punjab C. S. R., Volume I, Part I.

J. C. VACHHER,
Joint Secretary.

LABOUR DEPARTMENT

The 8th May, 1970

No. 4189-1Lab-70/14710.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial, Tribunal, Haryana Faridabad in respect of the dispute between the workmen and the management of M/s Goodyear India Limited, Ballabgarh.

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 42 of 1968

between

THE WORKMEN AND THE MANAGEMENT OF M/S GOODYEAR INDIA LIMITED BALLABGARH.

Present:

Shri Khushinder Singh, for the workmen.
Shri K.P. Aggarwal, for the management.

AWARD

The management of M/s Goodyear India Limited Ballabgarh, were getting the security and sanitation work done on contract basis. The regular workman employed by the respondent company through their union demanded that the work done by the security staff and the Janitors i.e. the sanitation staff was of a permanent nature and therefore the persons employed for security and sanitation be made direct employees of the company. This demand was not accepted by the management and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID/FD/20680, dated 5th August, 1968:—

"Whether the security staff and Janitors should be treated as direct employees of the company ? If so; with what details?"

On receipt of the reference usual notices were issued to the parties by my learned predecessor Shri K.L. Gosain, in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. So far as the question of Janitors is concerned the representative of the management has made a statement that all the Janitors who were working in the factory have been taken into regular service of the company and therefore the demand with regard to Janitors has been met and it does not require adjudication.

As regards the claim that the security staff be treated as direct employees of the company, the case of the workmen is that the job performed by the security staff is of a permanent and regular nature but the company instead of employing the security staff directly is getting this work done on contract and casual basis with the result that the persons employed in the security staff do not get all the benefits which are available to regular workmen.

In reply the management have raised a number of preliminary objections in the written statement. It is pleaded that the statement of claim is not verified and so it is liable to be dismissed on this ground alone. It is further pleaded that the persons employed for the security are the employees of the contractors and the Tribunal has no jurisdiction to direct that any outsiders be treated as direct employees of the Company, and further there can be no retrospective appointment in law nor can there be any retrospective termination in law. It is also pleaded that the company cannot be compelled to take the security staff under their direct control because under Article XIX of the Constitution of India it is the fundamental right of the company to carry on or not to carry on any business and this fundamental right permits the company to carry on or not to carry on any part of business or processes or functions involved in a particular business.

On merits it is pleaded that the main function of the respondent factory is to manufacture tyres and the resources of the management are solely devoted to making arrangements for manufacture and technical and administrative problems arising in the course of manufacture of tyres. It is submitted that the aim of the management is to concentrate its energies for the performance of these basic functions and to entrust all other extraneous matters to others for which it is not so well equipped. It is submitted that the maintenance of security and intelligence within the factory premises is becoming more and more technical and requires expert handling because the factory contains numerous small items which can easily be pocketed and taken away by the workmen, and as the factory is concerned with intricate jobs, the cost of small items is also very considerable. It is therefore pleaded that in order to keep watch over such matters expert and trained intelligence staff is necessary and for this reason in Europe and other places the intelligence job is always entrusted to outsiders for making arrangements with private detectives.

Preliminary issues as well as issues on merits were framed by my learned predecessor Shri K.L. Gosain and he directed the parties to produce their evidence. After Shri Gosain relinquished charge of his office the file was put up before me and at the request of Shri K.K. Khuller who then represented the management, arguments on the preliminary objections were heard first because it was urged by the learned representative that these objections go to the very root of the case and it could be disposed of on the strength of the preliminary objections alone. After hearing the learned representatives of the parties it was held by me,—*vide* the orders, dated 13th May, 1969, that the reference could not be rejected on any of the grounds raised in the preliminary objections. That order announced to the parties and thereafter they were directed to produce their evidence on merits. The order, dated dated 13th May, 1969, is an annexure to the award.

On merits the management produced Subedar Ram Sarup, Security Guard Supervisor and Shri K.P. Aggarwal, Manager, Labour, also appeared as a witness. In rebuttal Shri Khushinder Singh, President of the Goodyear Employees Union alone appeared as a witness. The parties produced this evidence in compliance with the order, dated 13th May, 1969. After the parties had concluded their evidence, the management brought Shri Brijbans Kishore, an advocate of the Supreme Court to argue the case. Shri Kishore again argued at length and quoted a number of authorities in support of the preliminary objections raised in the written statement. It was pointed out to Shri Kishore that Shri K. K. Khullar who was previously representing the management had already argued at length in support of the preliminary objections and these objections have been already decided against the management,—*vide* the order of this Court dated 13th May, 1969, which had been announced to the parties and if the management was aggrieved by the orders of this Tribunal, they could have gone up in Writ to the High Court and at any rate it was not possible to re-open the matter and re-hear the arguement in support of the preliminary objections. Shri Kishore in reply stated that he was aware of the orders of the Tribunal, dated 13th May, 1969, but submitted that the Tribunal in the said order had simply held that the reference could not be rejected summarily on account of any of the preliminary objections and as he was not now asking for summary disposal he was entitled to argue at length again in support of the preliminary objections. In my opinion the stand taken up by Shri Kishore is not correct. The Tribunal has no jurisdiction to re-open the matter which has already been decided. It is therefore, not necessary to discuss at length the points which have again been raised by Shri Kishore during the course of his lengthy arguments in support of the preliminary objections, and I will confine my observations to the merits of the case alone.

As regards merits of the case, Subedar Ram Sarup who has appeared on behalf of the management does not say anything. He has simply stated that the members of the Security staff are not members of the Goodyear Employees Union and they had not made any demand through the union nor were they interested in the demands raised on their behalf. Shri Ram Sarup has stated that the Security Staff are already getting the benefits such as E.S.I. and Provident Fund to which the company was also contributing.

The statement of the next witness Shri K.P. Aggarwal, M.W. 2 is a detailed one. Shri Aggarwal states that there are in all 14 Security Guards in the respondent factory and they get a consolidated wage of Rs 175 per mensem. He says that the senior Guards get Rs 280 per mensem and they are designated as security supervisors and the Head Security Guard is getting Rs 435 per mensem. Shri Aggarwal corroborates the statement of Shri Ram Sarup and says that the security staff are getting the benefits of Provident Fund and E.S.I. Shri Aggarwal further says that the security staff also get bonus, weekly rests, etc., but realising that in the matter of leave the members of the security staff were at a disadvantage, he stated that the management are prepared to give to the members of the security staff *ex-gratia* 7 days' casual leave, 7 days' sick leave, 15 days' earned leave and 10 days Festival and National Holidays in the shape of cash. He however emphasised that these facilities would be *ex-gratia*. Shri Aggarwal also filed an application on behalf of the members of the security staff in which it was

stated that the security staff did not wish to be treated as direct employees. Shri Aggarwal explained that this application had been given by him because the members of the security staff had a talk with him on that date and had told him that they did not wish to persue the present reference if they get the facilities as enumerated above.

A brief resume of the evidence produced by the management shows that the management have not led any evidence on the main point which requires determination in this case. We have already seen that the main ground on which the management have tried to defend the contract system for purpose of security is that the main function of the respondent factory is to manufacture tyres and the resources of the management are devoted to making arrangements for manufacture and technical and administrative problems arising in the course of manufacturing tyres. It is urged that the aim of the management is to concentrate their energies to the performance of their basic functions and to entrust all other extraneous matters to others for which it is not so well equipped. From the point of view of the management, the maintenance of security and intelligence within the factory premises is becoming more and more technical and requires expert handling because the factory contains numerous small items which can easily be pocketed and taken away by the workmen and as the factory is concerned with intricate jobs, the cost of the small items is also very considerable, and in order to keep watch over such matters expert and trained intelligence staff is necessary. It is alleged that for this reason in Europe and other places the intelligence job is always entrusted to outsiders for making arrangements with private detective. Obviously it was necessary for the management to have produced some evidence to prove these facts, for example the management could have produced evidence to prove that the work which is being done by them is really of intricate nature. Evidence could also have been led to show that small items are handled by the workmen and they are costly. Evidence could have also been led to show that security work is actually being handled by experts or that private detectives have in fact been employed who are not even known to the workmen and in this manner effective watch is being kept on the workmen. Mere allegations unsupported by evidence cannot possible help the Court to arrive at any conclusion and thus we see that the management have not led any evidence on the main point which needs determination in this case.

On behalf of the workmen Shri Khushinder Singh, President of the Goodyear Employees Union has appeared as a witness. He admits that the members of the security staff are not members of Goodyear Employees Union and obviously they could not be as they are not the direct employees of the respondent company but there is no denying the fact that the nature of work which is being performed by the members of the security staff is of a permanent nature, that is, it will continue so long as the company continues to work. Shri Khushinder Singh says that the regular workmen have raised the present demand on behalf of the persons engaged for security work because they desire that the members of the security staff should also get the benefits enjoyed by the regular employees, so that there is no longer any discrimination between workman and workman. Shri Khushinder Singh states that in their hearts of heart the members of the security staff also wish to be treated as direct employees because it would be manifestly to their advantage but being at the mercy of the contractors they do not have the courage to support the demands openly. Shri Khushinder Singh then enumerated the handicapped from which the members of the security staff are suffering. He says that the security staff do not get any casual or sick leave nor do they get any benefit for leave not availed of. As regards the benefits enjoyed by the regular employees the witness says that the direct employees get travelling allowance, dearness allowance night allowance, annual increments and they have the security of job but these facilities are not available to the members of the security staff because they remain in service only at the sweet will and mercy of contractor who employs them.

The learned representative of the management during the cousre of arguments did not contest the correctness of the points raised by the President of the union that the work of the security is of a permanent nature and being the employees of the contractor they have no security of service and in the matter of leave, etc. they are also at a disadvantage. He mainly emphasised the point that on principle security staff should be kept separate from the workmen on whom they are expected to keep a watch because if the workmen and the security staff belong to same brotherhood then the security staff will not properly check their brother workmen. According to the learned representative of the management the duties of the security staff are analogous to the duites of the police and the Legislature too was alive to the necessity of keeing the police personnel out of the perview of the Industrial Disputes Act and therefore made a specific provision in sub-clause (ii) of clause (s) of section 2 of the Industrial Disputes Act which provides that the persons employed in the police sevice would not be treated as workmen at all.

In reply the learned representative of the workmen submitted that it was not correct to compare the ordinary watchman with the members of the police force. It was urged that all other factories in Faridabad are keeping their watchman as their regular employees and the respondent company has not shown that their security problems are in any way peculieror different from the security problems of other industries and for this reason they are justified in employing the security staff on contract. The workmen have however not produced any evidence to prove that in other factories security staff are kept as regular employees.

A careful analysis of the evidence produced by the parties thus shows that niether party has produced the necessary evidence to enable this Tribunal to arrive at a proper conclusion on the matter referred for adjudication.

The learned representative of the workmen after the conclusion of the arguments realising this weakness in his case gave an application for permission to produce further evidence. He submitted that the representative of the management during the course of the evidence had agreed to give (although *ex-gratia*) certain concessions to the members of the security staff in the matter of leave, etc. and he, i.e. the representative of the union was under the impression that the members of the security staff would at least get these concessions

whatever may be the award in this case. He prayed that opportunity be given to the workmen to produce further evidence. Since the workmen had already closed their evidence it was held that the application was not legally maintainable and the case would not be reopened

As regards the point taken up by the management during the course of arguments their learned representative had relied upon a judgment of the Supreme Court given in the Standard vaccum Company case and reported in F.I.R. 1960 S.C. 948. In this case the employer had raised an objection as has been done by respondent company in this case that there was no industrial dispute as it was not open to the workmen to raise a dispute with respect to the workers of the contractors. Nogativing this contention it was held by their Lordships of the Supreme Court that the regular workers had a community of interest with the workmen of the contractor who were in effect working for the same employer. It was held that they had also a substantial interest in the subject matter of the dispute in the sense that the class to which the workmen belonged was substantially affected thereby. It was held the company could give relief in the matter and thus all the ingredients of section 2(k) of Industrial Disputes Act were present in the case and the dispute between the parties was an Industrial dispute and the reference was competent.

Dealing with the question as to whether the contract system in any particular case should be abolished, it was laid down by their Lordships of the Supreme Court that it was relevant to bear in mind that industrial adjudication generally did not encourage the employment of contract labour in modern times, but whenever a dispute is raised by the workmen in regard to the employment of contract labour by any employer, it would be necessary for the Tribunal to examine the merits of this dispute apart from the general consideration that contract labour should not be encouraged and in a given case the decision should rest not merely on theoretical or abstract objections to contract labour but also on the terms and conditions on which contract labour was employed and the grievance made by the employees in respect thereof.

In view of the principles laid down by the Lordship of the Supreme Court in the authority cited by respondent Company itself, it is necessary for this Tribunal to give a definite finding as to whether the employment of the security staff as a matter is really necessary for the reasons given by the management in the written statement and this question cannot be decided merely on theoretical or abstract considerations. In order to enable this Tribunal to give a proper finding evidence on the points raised by the management was absolutely essential. In the interest of justice I would have given an opportunity to the parties to produce further evidence but I am of the opinion that it is not necessary to prolong the present proceedings because as stated above the management themselves have taken up a stand, *vide* the statement of Shri K.P. Aggarwal, dated 17th October, 1969 that the members of the security staff are not keen in pursuing the present reference if the concession with regard to the grant of leave as detailed in the statement of Shri Aggarwal are allowed to them. The representative of the workmen has also given an application that for the time being he does not wish to pursue the present reference in case the members of the security staff are granted the facilities with regard to the grant of leave as detailed in the statement of Shri Aggarwal. Since it is not possible to give an award allowing any concessions with regard to the grant of leave to the members of the security staff who are emloyees of the contractors because this matter would be beyond the order of reference, I refrain from giving any award in view of the position jointly taken up by the parties. In case the facilities with regard to leave as detailed in the statement of Shri Aggarwalare not allowed to the members of the security staff, the workmen would be entitled to raise the present dispute again. I decide the reference accordingly

Dated, the 29th April, 1970.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 29th April, 1970

P. N. THUKRAL,
Presiding Officer
Industrial Tribunal, Haryana
Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 42 of 1968

between

THE WORKMEN AND THE MANAGEMENT OF MESSRS GOOD YEAR INDIA, LIMITED, BALLABGARH

Present :

Shri Kanshinder Singh, for the workmen.

Shri K. K. Khullar, for the Management.

ORDER

The following reference has been made to this Court for adjudication :—

Whether the Security Staff and Jointers should be treated as direct employees of the company ? If so ; with what details ?

A number of preliminary objections have been raised on behalf of the management which are as under :—

(i) The statement of claim filed on behalf of the workmen is not verified ;

(ii) The reference is bad because there are no workmen who are designated as jointers and who are working in the respondent company. The persons who do the clearing job are designated as Janitors ;

(iii) The Security staff and Janitors are the employees of the Contractor and are not the employees of the respondent company and the Tribunal is not competent to direct that the Security staff and Janitors be treated as direct employees of the Company.

(iv) There can be no retrospective appointment in law nor can there be any retrospective termination in law ;

(v) Under Article 19 of the Constitution of India it is a fundamental right of this company to carry on or not to carry on any business and this fundamental right extends to carry or not to carry on any part of business or process or function involved in a particular business.

As regards the merits of the case the Management have given detailed reasons for entrusting the security and sanitary work to the Contractors. My learned predecessor Shri K. L. Gosain framed the following issues :—

(1) Is the reference invalid for the reasons given in the preliminary objections in the written statement of the management ?

(2) Whether the security staff and jointers should be treated as direct employees of the Company ? If so, with what details ?

The case was fixed for evidence by my learned predecessor Shri K. L. Gosain but on the date fixed the representative of the Management Shri K. K. Khular made a statement that he was not present when the case was ordered to be fixed for evidence. He submitted that the case could be disposed of on issue No. 1 only and so the arguments on issue No. 1 were heard as desired. The submission of the learned representative of the management is that the Union has not demanded that the contract system should be abolished and without the abolition of the contract system there could be no demand that the employees of the contractors should be treated as the employees of the company. It is urged that the demand of the Union could only be considered when the contract with the contractors comes to an end in accordance with the law.

The further plea of the management is that there could be an industrial dispute between the respondent company and their workmen but as the janitors and the security staff are the employees of the contractors there could be no industrial dispute with them. It is submitted that the workmen of the respondent company could raise an industrial dispute that henceforward the work of the janitors and security staff should not be carried on through the contractors but no demand could be raised that outsiders should be treated as employees of the company and therefore even if it is assumed that this Court can come to a finding that the work should be performed directly by the respondent company then the provision which should be made by the company for work would remain at the discretion of the company and the arrangements will have to be made by the company as to how much staff the company will keep and the question as to what provisions should be made for the supervision of the work will depend upon the company itself and that no direction or claim can be made at this stage that the present employees of the contractor should be treated as direct employees of the company.

It is further submitted that under Article 19 of the Constitution of India it is a fundamental right of the company to carry on or not to carry on any business and this fundamental right extends to carry or not to carry on any part of the business or process or function involved in a particular business.

I have carefully considered the submissions of the learned representative of the management and in my opinion the reference cannot be rejected summarily on any of the grounds raised in the preliminary objections. I will consider each objection separatelty.

(i) The learned representative of the management has not drawn my attention to any rule which requires that the statement of claim if required by the Court to be filed on behalf of the workmen should be verified in any particular manner. The Government has made a reference on the basis of a demand notice submitted to it on behalf of the workmen of the respondent factory and this reference cannot be treated to be invalid simply because the statement of claim submitted by the workmen after the reference is not verified.

(ii) This objection is highly technical and I am of the opinion that the learned representative of the management is simply doing hair splitting. Simply the word janitors have been mis-spelt, this does not invalidate the order of the reference.

(iii) and (iv) The learned representative of the management is technically correct in his submission that if at all the demand should have been for the abolition of contract labour and it could not simply demand that the security staff and janitors should be direct employees of the company but we should look to the substance of the demand and not to the mere form. The demand that the security staff and janitors should be direct employees of the company, necessarily implies that the contract system with regard to security and sanitation should be abolished. It is not the demand of the union as given in the notice of demand, dated 18th April, 1968 attached with the order of reference that the existing personnel and the persons employed for security and sanitation should be treated as direct employees of the company. There was, therefore, no justification for the management to raise the objection that the Tribunal is not competent to direct the security staff and janitors be treated as direct employees of the company because this staff is working under the contractor and there can be no retrospective appointment in law nor can there be any retrospective termination in law.

(v) The management under Article 19 of the Constitution of India have no doubt a fundamental right to carry on or not to carry on any business but it cannot be accepted that this fundamental right, also gives them absolute discretion to carry on the business in the manner desired by them. It has been held in 1960-II-LLJ-Page 238, which is an authority of the Supreme Court that the Tribunal can give a direction for the abolition of the contract system. It has been held that mere theoratical or academic considerations are not relevant and therefore the question as to whether the contract system should be abolished or not can only be decided after taking into consideration the evidence produced by the parties and all the circumstances of the case.

In my opinion, therefore, the reference cannot be rejected summarily on account of any preliminary objections raised on behalf of the management. The parties are directed to produce their evidence on merits on 5th June, 1969.

Parties be informed of this order.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Dated the 13th May, 1969.

The 12th May, 1970

No. **4268-ILab-70/14927.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Amar Bearing Co. (Industries), Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA FARIDABAD

REFERENCE NO. 21 OF 1969

Between

THE WORKMAN AND THE MANAGEMENT OF M/S AMAR BEARING CO. (INDUSTRIES), FARIDABAD

Present.—

Shri Darshan Singh, for the workman.

Shri D. C. Bhardwaj, for the management.

AWARD

The workmen of M/s Amar Bearing Co. (Industries), Faridabad, claimed that bouns at the rate of 20% of their annual earnings should have been paid to them from the year 1964-65 to 1967-68. This demand was not acceptable to the management and it gave rise to an industrial dispute. Accordingly the Government of Haryana in exercise of the powers vested in him by clause (d) of sub-section (1) of section 10 of the Industrial disputes, Act, 1947, was pleased to refer the following demand for adjudication to this Tribunal,—*vide* Gazette Notification No. ID/FD/412 A/12442, dated 28th April, 1969.

"Whether the workmen are entitled to the grant of bonus for the years 1964-65 to 1967-68. If so from which date and with what details?"

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. It is, however, not necessary to decide this case on merits. A compromise has been effected between the parties. It is agreed that the management would pay bonus at the rate of 7% from the year 1964-65 to 1967-68 on the basis of the wages which the workmen were getting on 1st April, 1968. It has also been agreed that the management would be entitled to deduct the share of the workmen which they had to contribute to the Provident Fund from the bouns payable to them and the receipts would be given to them for the same. The payment of the bouns would be made within two weeks.

The statement of the parties have been recorded and these terms of settlement are acceptable to both the parties. In my opinion the settlement is fair and I gave my award accordingly.

Dated the 30th April, 1970.

P. N. THUK RAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 791 Dated :—the 2nd May, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 30th April, 1970

P. N. THUKRAL,
Presiding Officer.
Industrial Tribunal, Haryana,
Faridabad.

The 15th May, 1970

No. 4383 I Lab-70/14987 —In pursuance of the provisions of section 17 the Industrial Disputes Act, 1947 (Act No. XIV of 1947) , the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Fridabad in respect of the dispute between the workmen and the management of M/S Free Wheels (India) Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 44 of 1970

between

SHRI PARMA NAND WORKMAN AND THE MANAGEMENT OF M/S FREE WHEELS (INDIA) LTD., FARIDABAD

Present :—

Shri Darshan Singh for the workman.

Shri S. C JAIN, for the management.

AWARD

Shri Parma Nand was in the service of M/s Free Wheels (India) Ltd., Faridabad. His services were terminated and this gave rise to an industrial dispute, Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (d) of Sub-Section (I) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal, for adjudication,—*vide* Government Gazette Notification No. ID/FD/204B/7084, dated 10th March, 1970.

"Whether termination of sevices of Shri Parma Nand was justified and in order ? If not to what relief is he entitled ?

On receipts of the reference usual notices were issued to the parties in response to which the management filed their written statement. It was pleaded that the workmen had settled his final accounts with the respondent company on 20th March, 1970 and that he was not interested in reinstatment. Shri Darshan Singh who represented the workman stated that he had not been able to contact the workman and requested for time to obtain instructions. Time was accordingly given to Shri Darshan Singh but on the adjourned date Shri Darshan Singh again made a statement that the workman had not contacted him and he had no instructions to proceed further in this case. Under these circumstances there is absolutely no reason to disbelieve the version of the management that workman Shri Parma Nand has settled his final accounts with respondent company and that he is no longer interested in reinstatement.

Since the workman has produced no evidence to show that he has been wrongfully dismissed, I hold that the termination of his services cannot be said to be unjustified. I give my award accordingly.

The 8th May, 1970.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 827, the 11th May, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated :—The 8th May, 1970.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 25th May, 1970

No. I-Lab-70/14985.—In pursuance of the provisons of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial, Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Mahavir Metal Works, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 71 of 1969

between

SHRIMATI SAROJ KUMARI WORKMAN AND THE MANAGEMENT OF M/S MAHABIR METAL WORKS, FARIDABAD.

Present :—Shri Amar Singh, for the workmen.

Shri S. L. Gupta, for the management.

AWARD

Shrimati Saroj Kumari was in the service of M/s Mahabir Metal Works, Faridabad. Her services were terminated and this gave rise to an industrial dispute. Accordingly, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID/FD/413/21813, dated 7th November, 1969.

"Whether the termination of services of Shrimati Saroj Kumari was justified and in order ? If not to what relief is she entitled ?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the claimant Shrimati Saroj Kumari and the management filed their written statement. It is pleaded on behalf of Shrimati Saroj Kumari that she was taken in employment against a permanent job on 22nd March, 1969 but her services were terminated on 1st August, 1969 without giving her any opportunity to show cause.

On behalf of the management it is pleaded thar the claimant was appointed on 1st April, 1969 as a Press Operator at Rs. 100 P. M. on temporary basis and her services were terminated with effect ftom 31st July, 1969 because she became surplus. It is pleaded that the present dispute has not been raised under section 2A of the Industrial Disputes Act and as the dispute has not been raised in accordence with the provisions of the Industrial Disputes Act nor it has been espoused by a substantial number of workmen of the respondent concern, the reference is invalid. The pleadings of the parties gave rise to the following issues:—

1. Whether the reference is invalid?
2. Whether the claimant was employed on temporary basis and her services become surplus ?
3. Whether the termination of sevices of the claimant was justified and in order. If not to what relief is she entitled ?
4. Whether the claimant is gainfully employed ?

An opportunity has been given to the parties to produce their evidence. I have heard their learned representative and have carefully gone through the record. My findings are as under:—

Issue No. 1.

The representative of the management has made a statement that he does not press this objection. I therefore, decide this issue in favour of the workman.

Issues Nos. 2 and 3.

It is not necessary to decide these issues on merits. The representative of the management has made a statement that after the services of the claimant Shrimati Saroj Kumari were terminated, the management empolyed two ladies Shrimati Salochana Devi and Krishna Kumari as helpers and the management have no objection to take the claimant back in to service as a helper. The representative of the claimant has made a statement that the claimant is ready and willing to work as a helper. He however, maintains that the Government of Haryana has fixed Rs. 97/- as minimum wages of a workman in the Engineering Industry and the claimant would be entitled to at least her minimum wages. According to the management a helper is paid Rs. 70/—P. M, only. The question as to whether any minimum wages have been fixed by the Government of Haryana for the workmen in the Engineering Industry can not be decided in these proceedings. The claimant is prepared to work has a helper and the management are prepared to take her back into service as a helper. The claimant is therefore, directed to report for duty within 15 days from the date of the publication of this award. She would be entitled to such salary as is offered by the management to the helper subject to any notification by the Government fixation the minimum wages of the workmen in the Engineering Industry. I, therefore, do not give any findings on these issues in view of the statement of the representative of the parties.

Issue No. 4.

This issue does not arise in view of the compromise effected between the parties by which management have agreed to take the claimant back into service.

The representative of the claimant has prayed that the claimant be awarded back wages. Since there is no proof that the management employed any press operator after terminating the services of the claimant, it can not be said that the action of the management terminating the services of the claimant on the ground that she had become surplus was not justified. The claimant is, therefore, not entitled to any back wages. I give my award accordingly.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 8th May, 1970.

No. 822, the May, 1970

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1970.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 8th May, 1970.

B. L. AHUJA,
Commissioner of a Labour and,
Employment and Secretary,
to Government Haryana.